Civil Rules

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CIVIL RULES ("LR")

LR 1.1 Scope.

The provisions of the Civil Rules shall apply to all civil actions and proceedings, including tax, admiralty and bankruptcy adversary actions, except where they may be inconsistent with rules or provisions of law specifically applicable thereto.

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LR 4.1 Summons and Complaint.

The issuance of a summons and the service of a summons and complaint are governed by Rule (4) of the Federal Rules of Civil Procedure.

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LR 4.2 Service of Other Process.

Service of process other than a summons (F.R.Civ.P. 4) and subpoena (F.R.Civ.P. 45) (i.e., situations which require enforcement presence) is governed by Rule 4.1 of the Federal Rules of Civil Procedure.

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LR 5.1 Service and Filing of Other Documents Subsequent to Complaint.

All documents after the complaint required to be served and filed pursuant to Rule 5 of the Federal Rules of Civil Procedure shall be (1) served on all parties to the action in accordance with F.R.Civ.P. 5; and (2) filed with the Court within a reasonable time after service, together with a certificate of service. (See F.R.Civ.P. 5.)

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LR 5.2 Representation of Service.

When a member of the Bar of this Court applies to the clerk for the entry of a default, or of a default judgment, or for the certification of the record on appeal, or applies to the Court for an order or judgment, such application is a representation that due service has been made of all pleadings or papers required by the Federal Rules of Civil Procedure to be made a condition to the relief sought, and for which no acknowledgment or affidavit of service is on file. No other proof of service is required unless an adverse party raises a question of due notice.

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LR 6.1 Time Computation.

Federal Rule of Civil Procedure 6(a) controls the manner for computing any period of time prescribed or allowed by these Rules in all civil proceedings.

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LR 7.1 Motion Practice.

(a) Applicability. The provisions of this Rule shall apply to motions, applications, petitions, orders to show cause, and all other proceedings except a trial on the merits and applications for a temporary restraining order, unless otherwise ordered by the Court or provided by statute, the Federal Rules of Civil Procedure or the Local Rules.

(b) Service of Motion and Accompanying Papers. Every motion shall be presented in writing. The moving party must present a motion, which if oral argument is requested will contain the date on which the motion will be heard, as provided for in Local Rule 7.1(e)(2). The motion papers shall be served on each of the parties in accordance with Federal Rule of Civil Procedure 5(b) and filed with the clerk not later than twenty-one (21)

days prior to the day on which oral argument is scheduled, unless the Court orders a shorter time.

(c) Moving Papers. There shall be served and filed with the motion:

(1) a memorandum in support thereof containing the points and authorities upon which the moving party relies;

(2) the evidence upon which the moving party relies;

(3) any affidavits permitted by the Federal Rules of Civil Procedure; and

(4) the Proposed Order granting the relief requested in the motion.

(d) Opposition and Reply.

(1) Motions Set For Oral Argument:

(A) If a motion is set for oral argument, the opposing party shall, not less than fourteen (14) days preceding the noticed date of oral argument, serve upon all parties and file with the clerk:

(i) a memorandum in support thereof containing the points and authorities upon which the opposing party relies;

(ii) if desired, the evidence upon which the opposing party relies;

(iii) any affidavits permitted by the Federal Rules of Civil Procedure.

(B) The moving party may, not more than seven (7) calendar days preceding the noticed date of oral argument, serve and file a reply to the opposing party's opposition.

(2) Motions Not Set For Oral Argument:

(A) If a motion is not set for oral argument, the opposing party shall have fourteen (14) days from the date of the filing of the Motion to serve and file an Opposition, consisting of:

(i) a memorandum in support thereof containing the points and authorities upon which the opposing party relies;

(ii) if desired, the evidence upon which the opposing party relies;

(iii) any affidavits required by the Federal Rules of Civil Procedure.

(B) The moving party may, not less than seven (7) calendar days after service of the opposition, serve and file a reply to the opposing party's opposition.

(e) Oral Argument.

(1) Oral Argument Not Automatic. Oral argument must be requested by the parties, and may be denied in the discretion of the judge, except where oral argument is required by statute or the Federal Rules of Civil Procedure.

(2) Request For Oral Argument; Agreement of Oral Argument Date. If either party requests oral argument,

they must file an "Agreement of Hearing Date," in a form shown below in Attachment "LR 7.1A." It shall be the responsibility of the requesting party to contact the attorney for each party who has entered an appearance, or if the party(ies) are pro se, it is the requesting party's responsibility to contact the pro se party and propose a date for oral argument. Once the parties have agreed on a date for oral argument, the moving party shall clear the date with the clerk. When the date has been cleared with the clerk, that date shall be inserted in the "Agreement of Hearing Date." If the parties do not agree on a date for oral argument, the requesting party may submit the "Agreement of Hearing Date" to the Court with a notation that the non-requesting party does not agree, in which event the Court shall either determine the hearing date or determine that no oral argument shall be scheduled and the motion shall proceed to briefing and disposition under Local Rule 7.1(d)(2), in the Court's discretion.

(3) Court's Cancellation of Oral Argument. In cases where the parties have requested oral argument, such oral argument may be taken off calendar by Order of the Court, in the discretion of the Court, and a decision rendered on the basis of the written materials on file.

(4) Oral Argument Taken Off Calendar by the Court. In cases where the Court cancels oral argument, as referred to in subsection (3) above, the Opposition is due to be served on the opposing party(ies) and filed with the Court fourteen (14) days prior to the originally scheduled date of oral argument, and the reply shall be served and filed seven (7) calendar days prior to the originally scheduled day of oral argument.

(f) Failure to File Required Papers. Papers not timely filed by a party including any memoranda or other papers required to be filed under this Rule will not be considered and such tardiness may be deemed by the Court as consent to the granting or denial of the motion, as the case may be.

(g) Length of Briefs and Memoranda. Each party may submit briefs or memoranda in support of or in opposition to any pending motion which shall not exceed a total of twenty (20) pages in length without leave of Court to file additional pages. The moving party may submit a reply brief or memoranda not in excess of ten (10) pages without leave of court. All briefs and memoranda in excess of fifteen (15) pages shall contain a table of authorities cited.

(h) Advance Notice of Withdrawal or Non-Opposition; Continuances.

(1) Any moving party who does not intend to press the motion or who intends to withdraw before the hearing date, any opposing party who does not intend to oppose the motion, and any party who intends to move for a continuance of the hearing of a motion shall, not later than five (5) working days preceding the oral argument date, notify opposing counsel and the court clerk in writing.

(2) Absent good cause shown, a deadline fixed by these rules and the "Agreement of Hearing Date" will not be extended.

(i) Motion for Reconsideration. A motion for reconsideration of the decision on any motion may be made only on the grounds of

(1) a material difference in fact or law from that presented to the Court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or,

(2) the emergence of new material facts or a change of law occurring after the time of such decision, or,

(3) a manifest showing of a failure to consider material facts presented to the Court before such decision.

No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion.

(j) Ex Parte Applications. Applications for ex parte orders shall be accompanied by a memorandum containing the name of counsel for the opposing party, if known, the reasons for the seeking of an ex parte order, and points and authorities in support thereof. There shall also be attached, within a separate cover, the proposed ex parte order. The proposed order shall bear the signature of the attorney presenting it preceded by the words, "presented by" on the left side of the last page.

(1) Notice of Application. It shall be the duty of the attorney so applying to

(A) make a good faith effort to advise counsel for all other parties, if known, of the date, time and substance of the proposed ex parte application, and

(B) advise the court in writing of efforts to contact other counsel and whether any other counsel, after such advice, opposes the application or has requested to be present when the application is presented to the court.

(2) Waiver of Notice. If the judge to whom the application is made finds that the interests of justice require that the ex parte application be heard without notice, the judge may waive the notice requirement of subpart (1) of this section.

(k) Orders Shortening Time. Applications for orders shortening the time permitted or required by these Local Rules or the Federal Rules of Civil Procedure for the filing of any paper or pleading or the doing of any act shall be supported by a certificate stating the reasons therefor. When the application is made ex parte, the certificate shall state the reasons why a stipulation could not be obtained or notice could not be given.

(l) Sanctions. The Court need not consider motions, oppositions to motions or briefs or memoranda that do not comply with this Rule. The presentation to the Court of frivolous motions or oppositions to motions or the failure to comply fully with this Rule subjects the offender at the discretion of the Court to the sanctions of General Rule 2.1.

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LR 9.1 Three-Judge Court.

If a party contends that a hearing before a three-judge court is required pursuant to 28 U.S.C. §2284, the party shall type the words "Three-Judge Court" below the docket number on the first page of the pleading making the allegation. The clerk shall then notify the judge of the filing. In addition to the original filed, three copies of all papers, including briefs, shall be filed with the clerk.

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LR 10.1 Jurisdiction.

(a) Each complaint, petition, counter-claim and cross-claim shall state in a separate paragraph entitled "jurisdiction" the statutory or other basis for jurisdiction and the facts supporting jurisdiction.

(b) If a party alleges diversity jurisdiction under 28 U.S.C. § 1332; the party shall indicate: (1) the amount in controversy; and (2) the citizenship of all parties for purposes of §1332; and (3) if a party is a corporation, the corporation's citizenship and principal place of business for purposes of §1332(c).

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LR 10.2 Format and Filing.

See General Rule 5.1.

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LR 15.1 Amended Pleadings.

Any party filing or moving to file an amended pleading shall reproduce the entire pleading as amended and may not incorporate any part of a prior pleading by reference except with leave of court.

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LR 16.1 Scheduling Order and Discovery Plan.

(a) Applicability. Unless otherwise ordered, this Rule is applicable to all civil cases and bankruptcy adversary cases pending in this district, except for the cases exempted by Local Rule 16.1(b). Counsel are expected to meet and confer as required by Rule 26(f) of the Federal Rules of Civil Procedure and Local Rule 16.2, prior to commencing discovery, unless the Court orders otherwise. Counsel are expected to complete pretrial discovery in the shortest time reasonably possible with the least expense.

(b) Exempt Actions. The following actions are exempt from compliance with these procedures unless otherwise directed by the Court:

(1) Any action filed by or on behalf of a convicted prisoner, a pretrial detainee, or any other person confined in a territorial or federal institution challenging the validity or the conditions of confinement.

(2) Any action challenging the validity of a criminal conviction or sentence.

(c) Meeting of Parties, Scheduling Order, Discovery Plan, Status Report and Scheduling Conference.

(1) Meeting of Parties. All parties are directed to confer in accordance with Local Rule 16.2 and Rule 26(f) of the Federal Rules of Civil Procedure and provide the Court with a Scheduling Order and separate Discovery Plan within seventy-five (75) days of the date of the filing of the complaint. The Scheduling Order shall be in substantially the same form as Attachment "LR 16.1A" and the Discovery Plan shall be drafted in accordance with subsection (d) hereof.

(2) Initial Communication of Parties. It is the responsibility of plaintiff's counsel to initiate the communication necessary to prepare the Scheduling Order. In the event that the plaintiff is proceeding pro se, the defendant shall contact the plaintiff and arrange a meeting to comply with this Rule in the appropriate time frame.

(3) Time Limits - Scheduling Notice, Order and Conference and Discovery Plan. The clerk of Court will schedule a Scheduling Conference to be held within ninety (90) days after the complaint is filed. The clerk

shall mail, no later than forty (40) days after the complaint has been filed, a Scheduling Notice in the form set forth in Attachment "LR 16.1B" setting forth

(A) the date on which the Scheduling Order and Discovery Plan shall be filed by the parties, and

(B) the date for the Scheduling Conference.

It is the responsibility of plaintiff's counsel or the pro se plaintiff to serve a copy of the clerk's Scheduling Notice on all parties who may appear after the clerk's issuance of the Notice of Scheduling Conference.

(4) Contents of Scheduling Order.

The Scheduling Order to be submitted by the parties shall contain the following information:

(A) The nature of the case;

(B) The posture of the case including hearings, motions and discovery;

(C) (If the parties agree to the contents of the Discovery Plan as referred to in Local Rule 16.2 infra): the adoption and incorporation of the attached Discovery Plan as part of the Scheduling Order, OR

(D) (If the parties do not agree to the contents of the Discovery Plan referred to in Local Rule 16.2 infra):

(i) any modifications of the time for disclosures under Rules 26(a) and 26(e)(1) of the Federal Rules of Civil Procedure;

(ii) a description and schedule of all pretrial discovery each party intends to initiate prior to the close of discovery;

(E) The following dates:

(i) a proposed date limiting the joinder of parties and claims;

(ii) a proposed date limiting the filing of motions to amend the pleadings;

(iii) the assigned date for the required Scheduling Conference with the District Judge;

(iv) discovery cut-off dates (defined as the last day to file responses to discovery);

(v) discovery and dispositive motion cut-off dates (the last day to file motions);

(vi) pretrial conference dates;

(vii) dates for filing the trial brief, exhibit lists, witness lists, and the joint pretrial order as required by Local Rule 16.7, and

(viii) the trial date, and in no event shall the trial date be later than eighteen (18) months after the complaint is filed, unless the Court otherwise allows;

(F) The prospects for settlement;

(G) Whether the trial is jury or non-jury;

(H) The number of trial days required;

(I) The names of trial counsel;

(J) Whether the parties desire to submit the case early in the litigation to a settlement conference;

(K) Suggestions for shortening trial; and

(L) Any other issues affecting the status or management of the case.

(d) Contents of Discovery Plan. The Proposed Discovery Plan shall contain a description, including a schedule, of all pretrial discovery each party intends to initiate prior to the close of discovery, including time and length of discoverable events. The plan shall conform to the obligation to limit discovery under Rule 26(b) of the Federal Rules of Civil Procedure and shall address all matters set forth in Rule 26(f) of the Federal Rules of Civil Procedure.

(e) Non-Appearance of Defendants - Status Report. If on the due date of the Scheduling Order and Discovery Plan, the defendant(s) or respondent(s) have been served and no answer or appearance has been filed, or if service on the defendants has not been effected, counsel for the plaintiff or the pro se plaintiff shall file an independent status report setting forth the above information required in subsections A through L to the extent possible. The report shall also include the current status of the non-appearing parties.

In addition, if service has not been effected, plaintiff's counsel or the pro se plaintiff must set forth the reasons why service has not been effected and what attempts at service have been made.

LR 16.2 Meeting of Counsel and Preparation of Proposed Scheduling Order and Discovery Plan.

(a) Meeting of Counsel or Pro Se Litigants. Within fifteen (15) days after the receipt of the clerk's Scheduling Notice, but no later than sixty (60) days after the filing of the complaint, counsel of record and all pro se litigants shall meet in person for the purposes set forth below:

(1) Documents - To exchange all documents then reasonably available to a party which are contemplated to be used in support of the allegations of the pleading filed by the party. Documents later shown to be reasonably available to a party and not exchanged may be subject to exclusion at the time of trial.

(2) Discovery - To exchange preliminary schedules of discovery; to arrange for the disclosures required by Local Rule 26.2 and Rule 26(a) of the Federal Rules of Civil Procedure; and to discuss all items set forth in Rule 26(f) of the Federal Rules of Civil Procedure.

(3) Other Evidence - To exchange any other evidence then reasonably available to a party to obviate the filing of unnecessary discovery motions.

(4) List of Witnesses - To exchange a list of witnesses then known to have knowledge of the facts supporting the material allegations of the pleading filed by the party. The parties will then be under a continuing obligation to advise the opposing party of other witnesses as they may become known.

(5) Settlement - To discuss settlement of the action.

(6) Complicated Cases - To discuss whether the action is sufficiently complicated so that all or part of the procedures of the Manual for Complex Litigation should be utilized. Counsel may propose to the Court modifications of the procedures in the Manual to facilitate the management of a particular action.

(7) Proposed Scheduling Order - To discuss the contents and preparation of the Proposed Scheduling Order.

(8) Proposed Discovery Plan - To discuss the contents and preparation of the Proposed Discovery Plan.

(b) Preparation of the Proposed Scheduling Order. After the meeting of counsel referred to in Local Rule 16.2(a) above, plaintiff's counsel, or if plaintiff is pro se, the plaintiff, shall prepare a draft of the proposed Scheduling Order required by this Rule. Plaintiff's draft shall be presented to all parties for amendments and modifications. If all parties do not agree on a proposed Scheduling Order, the parties shall sign and file, on the date that the Scheduling Order is due, a mutual statement re: Disagreement of Scheduling Order, stating that the parties have been unable to agree despite good faith efforts to do so. To this statement shall be attached each party's Proposed Scheduling Order. If a party disagrees but does not attach a Proposed Scheduling Order, that party will be considered to have not taken a position with respect to the dates and matters contained therein.

(c) Preparation of the Proposed Discovery Plan. After the meeting of counsel referred to in Local Rule 16.2(a) above, the attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for submitting to the Court a Proposed Discovery Plan required by this Rule. Areas of disagreement with respect to discovery shall be included and denoted as such in the Discovery Plan.

(d) Scheduling Conference and Order. All matters required to be taken care of by the Scheduling Order and Discovery Plan will be addressed at the Scheduling Conference, after which the final Scheduling Order will be entered.

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LR 16.3 Failure to Cooperate - Sanctions.

The failure of a party or a party's counsel to participate in good faith in the framing of the proposed Scheduling Order and Discovery Plan required by this Rule, and Rules 16(b) and 26(f) of the Federal Rules of Civil Procedure may result in the imposition of appropriate sanctions. See General Rule 2.1 and Rules 16(f) and 37(g), Federal Rules of Civil Procedure.

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LR 16.4Filing of Motions Does Not Excuse Counsel from the Requirements of this Rule.

Absent an order of the court to the contrary, the filing of a motion, including a discovery motion, a motion for summary judgment, or a motion to dismiss, will not excuse the parties from complying with this Rule and any Scheduling Order entered in the case.

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LR 16.5 Extension of Deadlines Fixed in Scheduling Order.

A deadline established by a Scheduling Order will be extended only upon a good cause finding by the Court.

In the absence of disabling circumstances, the deadline for completion of all discovery will not be extended unless there has been active discovery. Delayed discovery will not justify an extension of discovery deadlines. A motion to extend the deadline in a Scheduling Order must demonstrate a specific need for the requested extension, and should be accompanied by a detailed proposed amendment to the previously entered Scheduling Order. The date for completion of discovery will be extended only if the remaining discovery is specifically described and scheduled, e.g., the names of each remaining deponent and the date, time and place of each remaining deposition. The Court, in its discretion, may order that the client consent in writing to any continuance proposed by counsel.

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LR 16.6Settlement Conference.

(a) At any time after an action or proceeding has been filed, any party may file a request for a settlement conference. Such conference may be held before a neutral judge, or before the assigned judge. If the conference is held before the judge trying the case, a written stipulation of all counsel shall be necessary prior to the settlement conference. Each party attending such a conference shall be represented by counsel authorized to participate in settlement negotiations. The Court may require, by Order issued prior to the settlement conference, the client or its authorized representative to personally attend the conference.

(b) Each party appearing at all conferences shall have full authority with respect to all matters on the agenda, including settlement of the action or proceeding.

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LR 16.7
Preliminary and Final Pretrial Conference, Trial Brief, Witness & Exhibit Lists, Discovery Material Designations, and Pretrial Order.

(a) Applicability. This Local Rule is applicable to all civil cases and bankruptcy adversary cases pending in this district, unless expressly waived in whole or in part by order of the Court pursuant to Local Rule 16.8.

(b) Trial Brief - Thirty (30) Days prior to Trial.

(1) Each party shall serve and file a Trial Brief thirty (30) days prior to the trial date, containing a summary of the party's basic factual contentions supported by legal authority in the form of a Legal Brief. The memorandum shall include the following:

(A) Factual Contentions - The memorandum shall contain a brief but full exposition of the party's theory of the case and a statement in narrative form of what the party expects to prove.

(B) Legal Brief.

(i) Issue of Law - The Memorandum shall include a legal brief discussing the issues of law necessary to the determination of the case with authorities cited in support thereof.

(ii) Evidentiary Problems - The legal brief shall identify and state the party's position on any anticipated evidentiary problems.

(C) Attorney's Fees - If either party claims that attorney's fees are recoverable by the prevailing party, the Memorandum shall discuss the factual and legal basis of such claim.

(D) Abandonment of Issues - The Memorandum shall state any issues in the pleadings which have been abandoned.

(E) Length of Trial Brief - No Trial Brief submitted under these Rules shall exceed twenty (20) pages in length.

(c) Preliminary Pretrial Conference - Twenty-one (21) Days Prior to Trial.

(1) A preliminary pretrial conference shall be held on the date and at the time set by a scheduling order under Local Rule 16.1. Such date and time shall be not later than twenty-one (21) days prior to the date of the trial, unless otherwise ordered by the Court.

The agenda for the pretrial conference shall consist of the matters covered by Rule 16, Federal Rules of Civil Procedure, and the matters set forth below. Each party shall be represented at the pretrial conference by counsel having authority with respect to all matters on the agenda, including settlement of the action or proceeding. The Court may require, by Order issued prior to the pretrial conference, the client or its authorized representative to personally attend the conference.

(2) At the preliminary pretrial conference, the parties shall discuss the following with the Court, which will be included in the Pretrial Order:

(A) Party. The names of the party or parties in whose behalf the statement is filed.

(B) Jurisdiction and Venue. The claimed statutory basis of federal jurisdiction and venue, or, if not a federal case, cite local statutory provisions vesting jurisdiction in the District Court, and a statement as to whether any party disputes jurisdiction or venue.

(C) Substance of Action. The substance of the claims and defenses presented.

(D) Undisputed Facts. All material facts not reasonably disputable. Counsel are expected to make a good faith effort to stipulate to all facts not reasonably disputable for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(E) Disputed Factual Issues. All disputed factual issues.

(F) Relief Prayed. The relief claimed, including a particularized itemization of all elements of damages claimed.

(G) Points of Law. Each disputed point of law with respect to liability and relief, with reference to statutes and decisions relied upon. Extended legal argument is not to be included in the pretrial statement.

(H) Previous Motions. All previous motions made in the action or proceeding and the disposition thereof.

(I) Further Discovery of Motions. All remaining discovery or motions.

(J) Stipulations. All stipulations requested or proposed for pretrial or trial purposes.

(K) Amendments, Dismissals. Requested or proposed amendments to pleadings or dismissals of parties, claims or defenses.

(L) Settlement Discussion. A summary of the status of settlement negotiations and indicating whether further negotiations are likely to be productive.

(M) Agreed Statement. Whether presentation of the action or proceeding, in whole or in part, upon an agreed statement of facts is feasible and desired.

(N) Bifurcation, Separate Trial of Issues. A statement whether bifurcation or a separate trial of specific issues is feasible and desired.

(O) Depositions. Marking of depositions for use at trial pursuant to Local Rule 32.1; and

(P) Reference to Master. Whether reference of all or a part of the proceeding to a master is feasible and agreeable.

(Q) Appointment and Limitation of Experts. Whether it is feasible and desirable for the judge to appoint an impartial expert witness or to limit the number of expert witnesses.

(R) Trial. The scheduled or requested trial date and, if trial is to be a jury, that a timely request for a jury is on file in the proceeding.

(S) Estimate of Trial Time. The number of court days anticipated for the presentation of each party's case. Counsel are expected to make a good faith effort to reduce the time required for trial by all means reasonably feasible, including, but not limited to, stipulations, agreed statements of facts, expedited means of presenting testimony and exhibits, and the avoidance of cumulative proof.

(T) Claims of Privilege or Work Product. Whether any of the matters otherwise required to be stated by this Rule are claimed to be covered by the work product or other privilege. Upon such indication, such matters may be omitted subject to further order at the pretrial conference.

(U) Miscellaneous. Any other subjects relevant to the trial of the action or proceeding, or material to its just, efficient and economical determination.

(d) Witness Lists, Discovery Material Designations, and Exhibit Lists -- Fourteen (14) Days Prior to Trial.

(1) Witness List. Fourteen (14) days prior to trial, each party shall serve and file under separate cover, a list of witnesses to be called at trial other than those contemplated to be used for impeachment or rebuttal. The Witness List shall also contain the address and telephone number of each witness. The Witness List shall also contain a statement that the witness lists were exchanged pursuant to Federal Rule of Civil Procedure 26(a)(3)(A). Witness names which were not exchanged thirty (30) days prior to trial pursuant to Federal Rule of Civil Procedure 26(a)(3) may not be contained on the Witness List absent leave of court, which shall be sought by motion. The obligation of listing such witnesses is a continuing one, and except for good cause shown the testimony of any such witness proffered at trial who is not listed upon a party's witness list shall be precluded.

(2) Discovery Material Designations. Fourteen (14) days prior to trial, each party shall serve and file under separate cover, a designation of (A) those witnesses whose testimony is expected to be presented by means of a deposition, and if not taken stenographically, a transcript of the pertinent portions of the deposition testimony; (B) statements designating excerpts from interrogatory answers to be offered at trial other than for

impeachment or rebuttal; (C) statements designating excerpts from responses to requests for admission to be offered at trial other than for impeachment or rebuttal. The Discovery Material Designation shall also contain a statement that the deposition designations were exchanged pursuant to Federal Rule of Civil Procedure 26(a)(3)(B). Deposition designations which were not exchanged thirty (30) days prior to trial pursuant to Federal Rule of Civil Procedure 26(a)(3) may not be contained on the Deposition Designation absent leave of court, which shall be sought by motion.

(3) Exhibit List. Fourteen (14) days prior to trial, each party shall serve and file an Exhibit List under separate cover setting forth a list of exhibits each party expects to offer at trial other than those to be used for impeachment or rebuttal, with a description of each exhibit sufficient for identification. Exhibits which were not exchanged thirty (30) days prior to trial pursuant to Federal Rule of Civil Procedure 26(a)(3) may not be contained on the Exhibit List absent leave of court, which shall be sought by motion. The Plaintiff's exhibits shall be listed in numerical order and the Defendant's exhibits shall be listed in alphabetical order.

The exhibit list shall be substantially in the form indicated by the following example:

Case Title: _____ Case No. _____

Plaintiff's Exhibits

No. of Date Date

Exhibit Description Identified Admitted

1 1/30/80 letter from

Doe to Roe

2 $500 check dated

2/3/82 drawn on

Roe payable to Doe

3 Handwritten notes of

Doe dated 1/16/80

Defendant's Exhibits

A 4/5/80 letter from

Roe to Doe

B $3,000 check dated

5/4/81 drawn on

Doe payable to Roe

C Typed notes of Roe

dated 1/30/80

Each party shall provide every other party and the Court with one copy of all exhibits, charts, schedules, summaries and diagrams and other similar documentary materials to be used at the trial other than for impeachment or rebuttal, together with a completed list of all such exhibits in the form specified in this Rule . In addition, each party shall prepare two (2) three-ring binders each containing a copy of each exhibit marked for identification and lodge both binders with the Court. Voluminous exhibits shall be reduced by elimination of irrelevant portions or by the use of summaries (Rule 1006, Federal Rules of Evidence). Exhibit identification tags are available from the Clerk's Office.

(e) Pretrial Order -- Fourteen (14) Days Prior to Trial. Fourteen (14) days prior to trial, plaintiff shall serve and file with the clerk a proposed Pretrial Order, signed by each party or the attorney for each party, approved as to form and substance by the attorneys for all parties appearing in the case. The Pretrial Order shall address all matters discussed in the Preliminary Pretrial Conference held twenty-one (21) days prior to trial, as set forth supra. The form shall be substantially as follows:

(Caption)

(Title of Case) CIVIL NO. _____

PRETRIAL ORDER

Following Pretrial proceedings, pursuant to Rule 16, Federal Rules of Civil Procedure and Local Rule 16.7,

IT IS ORDERED:

1. (a) This is an action for: (State the nature of the action).

(b) The parties are: (List)

Each of these parties has been served and has appeared. All other parties named in the pleadings and not identified in the preceding paragraph are now dismissed.

(c) The pleadings which raise the issues are: (List)

2. Jurisdiction and venue are invoked upon the grounds: (Concise statement of facts necessary to confer federal jurisdiction and venue; if not a federal case, cite local statutory provisions vesting jurisdiction in the District Court. State whether the facts requisite to federal jurisdiction are denied or admitted.)

3. The following facts are admitted and require no proof: (Set forth each admitted fact, including jurisdictional facts.)

4. The reservations as to the facts recited in Paragraph 3, above, are as follows: (Set forth any objection reserved by any party as to the admissibility in evidence of any admitted fact and, if desired by any party, limiting the effect of any issue of fact as provided by Rule 36(b), Federal Rules of Civil Procedure, as the case may be.)

5. The following facts, though not admitted, are not to be contested at the trial by evidence to the contrary: (Set forth)

6. The following issues of facts, and no others, remain to be litigated at the trial: (Set forth facts to be litigated, a mere general statement will not suffice. State only ultimate facts. Only facts susceptible to conflicting proof should be within this category.)

7. The following issues of law, and no others, remain to be litigated at the trial: (Set forth a concise statement of each.)

(N.B. Counsel are urged to reach agreement as to the issues of fact and law and how to state them. Where agreement is impossible, the Pretrial Conference Order should set forth the proposed issues with the parenthetical notation as to which party wishes it so stated and which party disagrees. Separate proposed pretrial conference orders will not be accepted. Issues in third-party pleadings should be stated separately and so identified.)

8. All discovery is complete. (If discovery is not complete only that discovery reserved in the Pretrial Conference Order will be allowed.)

9. The Exhibit Lists of the parties have been filed with the Court as required by Local Rule 16.7. The parties anticipate the following objections to the exhibits listed below:

10. Witness lists of the parties have heretofore been filed with the Court as required in Local Rule 16.7. (Except for good cause shown, only the witnesses identified in the list will be permitted to testify other than for impeachment or rebuttal.)

11. Each party intending to present evidence by way of deposition testimony has marked such depositions in accordance with Local Rule 32.1. For this purpose, the following depositions shall be lodged with the clerk as required by Local Rule 32.1: (List)

12. The following law and motion matters are pending or contemplated: (State "none" or list.)

13. The trial is to be a jury (non-jury) trial.

(If a jury trial, add): At least seven (7) days prior to the trial date counsel shall serve on all parties and lodge with the Court proposed voir dire questions, if any; the forms of verdict; and joint proposed jury instructions as required by Local Rule 16.7(f) and Local Rule 51.1.

(If non-jury trial, and requested by the Court, add): At least seven (7) days prior to the trial date each counsel shall serve on all parties and lodge with the Court proposed findings of fact and conclusions of law.

14. The trial is estimated to take ____ trial days. (Where counsel cannot agree, set forth each side's estimate.)

15. The Final Pretrial Conference shall be held on the ____ day of _____, 19__, at _____ o'clock.

16. The trial of this cause will be held on the ____ day of _____, 19___, at _____ o'clock.

17. The foregoing admissions having been made by the parties, and the parties having specified the foregoing issues of fact and law remaining to be litigated, this Pretrial Conference Order shall supersede the pleadings

and govern the course of the trial of this cause, unless modified to prevent manifest injustice.

DATED this _____ day of _____, 19___.

_____

(NAME OF JUDGE)

Judge, District Court of Guam

APPROVED AS TO FORM

AND CONTENT:

_____ _____

Attorney for Plaintiff Attorney for Defendant

_____

Attorney for (indicate party

represented)

(f) Proposed Jury Instructions, Voir Dire Questions, Forms of Verdicts, Objections -- Seven (7) Days prior to Trial.

(1) In jury cases, unless the judge otherwise orders, the parties shall, not less than seven (7) calendar days prior to the date on which the trial is scheduled to commence, serve and lodge proposed jury instructions and proposed verdict forms. If desired, each party may also submit proposed voir dire questions. The parties shall meet and confer sufficiently in advance of trial and formulate a list of joint proposed jury instructions, if possible. Those instructions upon which agreement cannot be reached shall be submitted in a separate packet. Each proposed instruction shall be numbered, set forth in full on a separate page, embrace only one subject or principle of law, indicate which party presents it, and indicate at the bottom of the instruction the source from which it was derived, i.e., Ninth Circuit Model Jury Instructions, case law with case citations, etc. The Court may at any time prior to instructing the jury receive requests for additional instructions.

(2) Objections to Opposing Party's Witness and Exhibit Lists and Discovery Material Designations. Seven (7) days prior to trial, a party may serve and file any objections to another party's Witness List, Discovery Material Designations, and Exhibit List. Objections not so made shall be deemed waived. The parties are referred to Local Rule 32.1 for the use of depositions at trial.

(g) Motions in Limine - Seven (7) Days Prior to Trial. At least seven (7) calendar days before trial is scheduled to commence, each counsel may serve and file a motion in limine with respect to anticipated evidentiary problems, which may contain:

(1) A concise statement of the evidence which it is anticipated that opposing counsel will seek to introduce;

(2) The objection to such evidence; and

(3) A short summary of the points of law involved, citing authorities in support thereof.

(h) Final Pretrial Conference -- Seven (7) Days Prior to Trial. The parties shall have a Final Pretrial Conference with the Court seven (7) days prior to trial for the purpose of ensuring that all pretrial preparation is complete, and to discuss mechanical aspects of trial, such as starting and stopping times, etc. If all pretrial preparation, as required by this Rule, is complete, and if the parties have no matters to discuss with the Court, the parties may stipulate to continue the Final Pretrial Conference until the morning of trial.

TOP

LR 16.8 Waiver of Pretrial.

At the time of the Scheduling Conference held pursuant to Local Rule 16.1, the parties may advise the Court that the matter should not be subject to the pretrial rule of this Court (Local Rule 16.7) and file a request with the Court to order a waiver. The request shall contain the reasons that counsel requests the waiver and shall be signed by all counsel. An order of waiver to be signed by the judge shall be prepared on a separate document.

(a) Procedure on Waiver. If the Court orders that the case should not be subject to the pretrial rule, the Proposed Discovery Plan prepared by counsel pursuant to Local Rule 16.2 shall contain a comprehensive discovery schedule that will permit the trial to be set within six (6) months of the date of the filing of such Proposed Discovery Plan.

(b) Preparation for Trial. If the case is approved by the Court for Waiver of Pretrial preparation, the attorneys for the parties shall meet thirty (30) days before the date set for commencement of the trial and each party shall file not less than fourteen (14) days before the date set for commencement of the trial:

(1) a succinct statement of the factual and legal issues;

(2) in non-jury cases, detailed narrative statements of witnesses to be used at trial as the direct testimony of the witnesses, subject to cross-examination at trial by the opposing party;

(3) a witness list; (See Federal Rule of Civil Procedure 26(a)(3) and Local Rule 16.7(d));

(4) an exhibit list; (See Federal Rule of Civil Procedure 26(a)(3) and Local Rule 16.7(d));

(5) depositions to be used at trial marked as required by Federal Rule of Civil Procedure 26(a)(3) and Local Rule 32.1; and

(6) a trial brief which provides the theory of the case and statutory or precedential support for the theory, together with any unusual evidentiary or legal questions which may be anticipated at trial.

(c) Waiver - Limitation. Waiver of pretrial shall apply only to cases that are realistically estimated to consume no more than two (2) trial days.

TOP

LR 17.1 Guardians Ad Litem.

(a) Appointment Procedure. Guardians Ad Litem may be appointed ex parte, at any time upon the presentation to the judge of a sworn petition showing good cause for the appointment. The petition shall be filed with the appointment order.

(b) Person Ineligible to be a Guardian Ad Litem. No person shall be appointed guardian ad litem if the person has an interest adverse to that of the infant, or if the person is connected in business with an adverse party or with the attorney of the adverse party; or if the person has insufficient pecuniary ability to answer to the infant for any injury which the infant may sustain as a result of the person's negligence or misconduct.

(c) Bond of Guardian Ad Litem. No bond shall ordinarily be necessary from a guardian ad litem; provided, that no guardian shall receive any money or other property of the infant until the guardian has filed with the clerk a bond in an amount fixed by the judge, conditioned for the faithful performance of the guardian's duties. If the guardian does not desire to receive any money or property of the infant, the money or property shall be paid or delivered to the clerk or to a person directed by the Court. Under these circumstances, the payment or delivery of the money or property to the clerk shall have the same effect as if the money or property had been paid or delivered to the guardian.

(d) Order of Judgment Required. No action by or on behalf of a minor or incompetent shall be settled, compromised, dismissed, discontinued or terminated without the Court's approval. When required by Territorial law, Court approval shall also be obtained from the appropriate Territorial Court having jurisdiction over the matter for any settlement or other disposition of litigation involving a minor or incompetent.

TOP

LR 23.1 Class Actions.

In any action sought to be maintained as a class action, the complaint, and any counterclaim or cross-claim, shall bear, below the title of the pleading, the legend "Class Action."

TOP

LR 26.1 Discovery Documents - Nonfiling and Disclosure.

(a) Nonfiling of Discovery Documents and Proof of Service. The following discovery documents and proofs of service thereof shall not be filed with the clerk until there is a proceeding in which the document or proof of service is in issue:

(1) Transcripts of depositions upon oral examination;

(2) Transcripts of depositions upon written questions;

(3) Interrogatories;

(4) Answers or objections to interrogatories;

(5) Requests for the production of documents or to inspect tangible things;

(6) Responses or objections to requests for the production of documents or to inspect tangible things;

(7) Requests for admission;

(8) Responses or objections to requests for admission; and

(9) Disclosures made under F.R.Civ.P. 26 and Local Rule 26.2.

When required in a proceeding, only that part of the document which is in issue shall be filed. All such discovery documents shall be held by the attorney pending use pursuant to this Rule for the period specified in Local Rule 79.1 for the retention of exhibits, unless otherwise ordered by the Court.

(b) Discovery Documents - Disclosure. During the pendency of any civil proceeding, any person may, after written notice is served on all parties to the action, obtain a copy of any deposition or discovery document not on file with the Court upon payment of the expense of the copy and upon

(1) approval by the clerk, if no objection is filed with the clerk by any party to the action within five (5) days after service of such written notice, or

(2) leave of Court, if an objection is filed with the clerk by any party to the action within five (5) days after service of such written notice.

TOP

LR 26.2 Prediscovery Disclosure.

Before any party initiates discovery, that party must submit to the opponent (a) the identity of all persons known or believed to have substantial discoverable information about the claims or defenses, together with a summary of that information; (b) a description, including the location, of all documents that are reasonably likely to bear substantially on the claims or defenses; (c) a computation of any damages claimed; (d) the substance of any insurance agreement that may cover any resulting judgment; and (e) a copy of any report of an expert who may be called at trial. The disclosure obligation is reciprocal and continues throughout the case.

TOP

LR 30.1 Depositions.

(a) Depositions - Original. The original transcript of a deposition shall, unless otherwise stipulated to on the record at the deposition, after signing and correction, or waiver of the same, be sent to the attorney noticing the deposition.

(b) Depositions: Attorneys' Duty as to Time & Location. Attorneys will make every reasonable effort to stipulate to the exact times and places for the commencement and resumption of all depositions.

(c) Depositions: Recorded by Videotape.

(1) A party may notice depositions utilizing videotape or a similar recording method provided that:

(A) the notice clearly indicates that the deposition will be recorded on videotape or by a similar recording method; and

(B) reasonable advance notice is given to all parties; and

(C) a written record of the questions and answers is taken at the time of the taking of the deposition.

(2) A party who objects to the notice of deposition utilizing videotape or a similar recording method may file a motion for protective order under Rule 26(c), Federal Rules of Civil Procedure.

(d) Depositions for Use in Foreign Judicial Proceedings. Application may be made ex parte for the designation, pursuant to 28 U.S.C. §1782, of an officer to take the deposition of a person within this district for use in a judicial proceeding pending in the court of a foreign country. If the court in which the proceeding is pending has appointed a person to take the deposition, that person will be designated, unless there is good cause for refusing such designation.

The officer shall certify and mail the deposition to the foreign court in accordance with the provisions of Rules 30(f) or 31(b), Federal Rules of Civil Procedure, and file proof of mailing with the clerk of this Court.

TOP

LR 32.1 Depositions - Use at Trial.

Deposition transcripts to be used at trial shall be the original transcripts, shall be lodged with the clerk at least seven (7) days before trial, and shall be marked as follows:

(a) Identify on the original transcript to be lodged the testimony that the party intends to offer at trial by bracketing the questions and answers in the margins. The opposing party shall likewise countermark any testimony that it plans to offer. The parties shall agree between themselves on a separate color to be used by each party which shall be consistently used by that party for all depositions marked in the case.

(b) Each party shall mark objections to the proffered evidence in the margins of the deposition by briefly stating the grounds for the objection.

(c) In appropriate cases and when ordered by the Court, the parties shall jointly prepare a deposition summary to be used in lieu of question and answer reading of a deposition at trial.

At the same time that the party lodges the deposition as required above, such party shall also serve and file with the clerk a "Notice of Portions of Deposition Marked and Countermarked." (See Local Rule 16.7(f)(2).)

TOP

LR 33.1 Interrogatories and Requests for Admission.

(a) Limitation on Number of Interrogatories and Requests for Admission. No party shall serve more than one set of interrogatories or requests for admission on any other party without leave of court. Interrogatories or requests for admission shall not exceed twenty-five (25) in number, counting any subparts or subquestions as individual questions. Subparts or subquestions of any interrogatory shall relate directly to the subject matter of the interrogatory. Any party desiring to serve additional interrogatories shall submit to the Court a written memorandum setting forth the proposed additional interrogatories or requests for admission and the reasons establishing good cause for their use.

(b) Answers and Objections to Interrogatories and Requests for Admission. The party answering or objecting to interrogatories or requests for admission shall quote each interrogatory or request in full immediately

preceding the statement of any answer or objection thereto.

(c) Interrogatories, Requests for Admission and Requests for Production of Documents - Original. The original of the interrogatories, requests for admission or requests for the production of documents or to inspect tangible things served on the opposing party shall be held by the attorney propounding the interrogatories or requests pending use. (See Local Rule 26.1(a).)

TOP

LR 36.1 Requests for Admission.

See Local Rule 33.1.

TOP

LR 37.1 Discovery Motions.

(a) Prior to the filing of any motion relating to a discovery dispute, counsel for the parties shall meet in person in a good faith effort to eliminate the necessity for hearing the motion or to eliminate as many of the disputes as possible. It shall be the responsibility of counsel for the moving party to arrange for the conference.

(b) If counsel are unable to settle their differences, they shall formulate a written stipulation specifying separately and with particularity each issue that remains to be determined at the hearing and the contentions and points and authorities of each party. The stipulation shall not refer the Court to other documents in the file.

By way of example only, if the sufficiency of an answer to an interrogatory is in issue, the stipulation shall contain verbatim, both the interrogatory and the allegedly insufficient answer, followed by each party's contentions, separately stated. The stipulation shall be served and filed with the notice of motion. In the absence of such stipulation, or a declaration of counsel of non-cooperation by the opposing party, the Court will not consider any discovery motion unless otherwise ordered upon good cause shown.

(c) Briefing and oral argument of all discovery motions shall be scheduled pursuant to Local Rule 7.1.

(d) If the discovery disputes are found to be frivolous or based on counsel's failure to cooperate with each other in good faith, sanctions will be imposed at the discretion of the Court.

TOP

LR 41.1Call of the Docket - Status Hearings.

Status hearings shall be scheduled by the clerk in all cases pending with no action taken in the preceding three (3) months. Notice shall be given in writing to each attorney of record in every case to be called, stating the date and time for such hearing. If good and sufficient reasons are not presented by counsel for failure to have taken appropriate action in any such case, the Court may dismiss the action or enter such other order as may be proper.

TOP

LR 51.1Proposed Jury Instructions, Voir Dire Questions and Verdict Forms.

In jury cases, the parties shall not less than seven (7) calendar days prior to the date on which the trial is scheduled to commence, serve and lodge proposed voir dire questions, if desired, and proposed jury instructions and verdict forms. (See Local Rule 16.7(f).)

TOP

LR 52.1 Proposed Findings of Fact and Conclusions of Law.

In non-jury cases, if ordered by the Court, the parties shall not less than seven (7) calendar days prior to the date on which the trial is scheduled to commence, serve and lodge proposed findings of fact and conclusions of law.

TOP

LR 54.1Taxation of Costs.

(a) Application to the Clerk. Within eleven (11) days after the entry of a judgment allowing costs the prevailing party shall serve on the attorney for the adverse party and file with the clerk an application for the taxation of costs. The application shall be on a Bill of Costs form prescribed by the Court which shall be furnished by the clerk upon request. If an application for costs is received which is not on the appropriate form, the clerk shall promptly notify the party seeking costs, shall forward the correct form, and shall extend the time for filing the amended claim for a period not to exceed ten (10) days. The application shall contain an itemized schedule of the costs in a sworn statement signed by the attorney for the applicant that the schedule is correct, that the costs were necessarily incurred in the case, and that the services for which fees have been charged were actually and necessarily performed. The application shall be heard by the Clerk not less than eleven (11) nor more than sixteen (16) days after it is served, and written notice of the time of hearing shall be given to all parties by the Clerk of Court.

A failure to comply with this Rule waives the right to recover all costs, other than the clerk's costs, which may be inserted in the judgment without application. At the option of the Clerk, the hearing may be held by telephone conference call.

(b) Items Taxable As Costs.

(1) Filing fees - The clerk's filing fees.

(2) Fees for Service of Process - Fees for service of process (whether served by the United States Marshal or other persons authorized by Rule 4, Federal Rules of Civil Procedure.)

(3) United States Marshal's Fees - Fees and charges paid to the United States Marshal pursuant to 28 U.S.C. § 1921.

(4) Reporter's Transcripts - The cost of the original and one copy of all or any part of a trial transcript, daily transcript or a transcript of matters occurring before or after trial, if requested by the Court or prepared pursuant to stipulation.

(5) Depositions - Costs incurred in connection with taking depositions, including:

(A) the cost of the original and one copy of all depositions necessarily obtained for use in the case;

(B) the reasonable fees of the deposition reporter, the notary, and any other persons required to report or transcribe depositions which were necessarily obtained for use in the case;

(C) reasonable witness fees paid to a deponent, including fees actually paid to an expert witness deponent pursuant to Rule 26(b)(4)(C), Federal Rules of Civil Procedure.

(D) reasonable fees paid to an interpreter when necessary to the taking of the deposition; and

(E) the cost of copying or reproducing exhibits used at the deposition and made a part of the deposition transcript.

(6) Witness Fees - Fees paid to witnesses, including:

(A) per diem, mileage, subsistence and attendance fees as provided in 28 U.S.C. §1821 paid to witnesses subpoenaed and/or actually attending the proceeding;

(B) witness fees for a party if required to attend by opposing party; and

(C) witness fees for officers and employees of a corporation if they are not parties in their individual capacities.

(7) Interpreter's and Translator's Fees - Fees paid to interpreters and translators, including:

(A) The salaries, fees, expenses and costs of an interpreter as provided by 28 U.S.C. § 1827 and 1828; and,

(B) Fees for translation of documents received in evidence, used as part of the proceeding or when otherwise reasonably necessary to the preparation of the case.

(8) Docket Fees - Docket fees as provided by 28 U.S.C. § 1923.

(9) Masters, Commissioners, and Receivers - The reasonable fees and expenses of masters, commissioners, and receivers.

(10) Certification, Exemplification and Reproduction of Documents - Document preparation costs for documents necessarily obtained for use in the case, including:

(A) the cost of copies of an exhibit attached to a document necessarily served and filed;

(B) the cost of copies of documents admitted into evidence when the original is not available or the copy is substituted for the original at the request of an opposing party;

(C) fees for an official certification of proof respecting the non-existence of a document or record;

(D) notary fees incurred in notarizing a document when the cost of the document is taxable; and

(E) fees for necessary copies and necessary certification or exemplification of any documents.

(11) Premiums on Undertakings and Bonds - Premiums paid on undertakings, bonds, security stipulations, or substitutes therefor where required by law, court order, or where necessary to enable a party to secure a right granted in the proceeding.

(12) Other Costs - Upon order of the Court, the following items may be taxed as costs:

(A) summaries, computations, polls, surveys, statistical comparisons, maps, charts, diagrams and other visual aids reasonably necessary to assist the jury or the Court in understanding the issues at the trial;

(B) photographs, if admitted in evidence or attached to documents necessarily served upon the opposing party and filed; and

(C) the cost of models if ordered by the Court in advance of or during trial.

(13) Removed Cases - Costs incurred in territorial court prior to removal which are recoverable under territorial statutes shall be recoverable by the prevailing party in this Court.

(14) Costs on Appeal - Costs on appeal taxable in the District Court shall be governed by FRAP 39(e). Such costs bill is to be filed within fifteen (15) days of the filing and spreading of the mandate of the Court of Appeals in the district court.

(15) Items of Costs Not Specifically Mentioned in This Rule shall be taxed by the Clerk in accordance with the laws of the United States.

(c) Objections to Bill of Costs - Response. Any party may file and serve written objections to any item specified in a Bill of Costs. The grounds for objections shall be specifically stated. The objections shall be served and filed no later than five (5) days before the date noticed for the hearing. A written response may be served and filed no later than three (3) days before the date noticed for the hearing.

(d) Clerk's Determination - Finality. After considering any objections to the Bill of Costs and any responses thereto, the Clerk shall tax costs to be included in the judgment. The Clerk's determination shall be final unless modified by the Court upon review pursuant to subsection (e) hereof.

(e) Review of Clerk's Determination. A dissatisfied party may appeal to this Court upon written motion served within five (5) days of the Clerk's decision, as provided in Federal Rule of Civil Procedure 54(d). The motion shall specify all objections to the Clerk's decision and the reasons for the objections. Appeals shall be heard upon the same papers and evidence submitted to the Clerk.

(f) Clerk's Duty. As soon as practicable after the taxation of costs becomes final, the Clerk shall insert the amount of costs taxed into the blank left in the taxation of costs form and the judgment, and shall enter a similar notation on the docket sheet.

(g) Writ of Execution for Costs. The clerk shall, upon request, issue a writ of execution to recover costs or attorney's fees included in the judgment:

(1) Upon presentation of a certified copy of the final judgment in the District Court; or

(2) Upon presentation of a mandate of the Court of Appeals to recover costs taxed by the Appellate Court.

TOP

LR 54.2
Sanctions for Late Notification of Settlement, Postponement or Other Disposition of Civil Jury Trial.

Whenever any civil action scheduled for jury trial is required to be postponed, or settled or otherwise disposed of in advance of the actual trial, then, except for good cause shown, all juror costs shall be assessed equally against the parties and their counsel or otherwise assessed as directed by the Court, unless the Court and the Clerk's Office are notified at least one full business day prior to the day on which the action is scheduled for trial.

TOP

LR 54.3 Filing Date for Attorney's Fees.

Any motion or application for attorney's fees shall be served and filed within fourteen (14) days after the entry of judgment or other final order, unless otherwise ordered by the Court. Such motions and their disposition shall be governed by Local Rule 7.1 and Rule 54(d)(2) of the Federal Rules of Civil Procedure.

TOP

LR 58.1 Judgments.

(a) Judgment. The Judgment shall be set forth on a separate document as required by Rule 58, Federal Rules of Civil Procedure. The Judgment shall follow, as nearly as possible, Federal Rules of Civil Procedure Official Forms No. 31 or No. 32.

(b) Entry of Judgments and Orders.

(1) In all cases, the notations of judgments and orders in the civil docket by the clerk will be made at the earliest practicable time. The notations of judgment will not be delayed pending taxation of costs, but there may be inserted in the judgment a clause reserving jurisdiction to tax and apportion the costs by subsequent order.

(2) Orders under subdivision (a) of this Rule will be noted in the civil docket immediately after the clerk has signed them.

(3) No judgment or order, except orders granted by the Clerk under Local Rule 77.1 and judgments which the Clerk is authorized by the Federal Rules of Civil Procedure to enter without direction of the Court, will be noted in the civil docket until the clerk has received from the Court a specific direction to enter it. Unless the Court's direction is given to the clerk in open court and noted in the minutes, it should be evidenced by the judge's signature or initials on the judgment or order.

(4) Every order and judgment shall be filed in the Clerk's Office, and if the clerk so requests, a copy shall be inserted in the civil order book.

TOP

LR 65.1 Temporary Restraining Orders and Preliminary Injunctions.

(a) Application for Temporary Restraining Order or Preliminary Injunction. An application for a temporary restraining order or preliminary injunction shall be made in a document separate from the complaint.

(b) Preliminary Injunctions. When a temporary restraining order ("TRO") is not sought, an application for a

preliminary injunction shall be made by motion and not by order to show cause. When a TRO is sought, application for a preliminary injunction shall be made by order to show cause. If the TRO is granted, the hearing on the order to show cause will be set within ten (10) days after the entry of the TRO unless otherwise agreed by the parties. If the TRO is denied, the Court may set the hearing on the order to show cause re: preliminary injunction without regard to the requirements of Local Rule 7.1.

TOP

LR 65.1.1 Bonds and Sureties.

(a) Security for Costs.

(1) Nonresidents. Every nonresident filing a complaint shall, within ten (10) days after demand of an adverse party, file with the complaint a bond for costs in the sum of $500.00, unless for good cause, on motion, which may be made ex parte, the Court dispenses with the bond or fixes a different amount. The bond shall have sufficient surety and shall be conditioned to secure the payment of all costs of the action which the party may ultimately be required to pay to any other party. After the bond is filed, any opposing party may raise objections to its form or to the sufficiency of the surety for determination by the Clerk. If the bond is found to be insufficient, the Court may order the filing of a sufficient bond within a specified time. If the order is not complied with, the Clerk shall enter dismissal of the action as in the case of dismissal for want of prosecution.

(2) Other Parties. On its own motion or a party's motion, the Court may order any party to file a bond for costs in an amount and under conditions designated by the Court.

(b) Qualifications of Surety. Every bond for costs under these Rules must have as surety either (1) a cash deposit, certified check or bank check equal to the amount of the bond or (2) a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under Title 31 U.S.C. §§ 9301-9309, or (3) two individual residents of the Territory of Guam, each of whom owns real or personal property within the Territory of Guam sufficient in value above encumbrances to justify the full amount of the suretyship, or (4) any insurance, surety or bonding company licensed to do business in the Territory Guam.

(c) Court Officers as Surety. No clerk, marshal or other employee of the Court, nor any member of the bar representing a party in the particular action or proceeding, will be accepted as surety on any bond or other undertaking in any action or proceeding in this Court. Cash deposits on bonds may be made by members of the bar on certification that the funds are the property of a specified person who has signed as surety on the bond. Upon exoneration of the bond, such monies shall be returned to the owner and not to the attorney, unless the Court orders otherwise.

(d) Bond for Removal. Where a bond is required to secure costs in proceedings for removal of an action from a territorial court, it shall be in the sum of $250.00.

(e) Suits by Indigent Persons. At the time an application is made, under Acts of Congress providing for suits by indigent persons, for leave to commence any civil proceeding without being required to prepay fees and costs or give security for them, the applicant shall file a written consent that the recovery, if any, in the proceeding, to the amount as the Court may direct, shall be paid to the clerk who may pay therefrom all unpaid fees and costs taxed against the plaintiff and, to plaintiff's attorney, the amount which the Court allows or approves as compensation for the attorney's services.

(f) Deposit of Money or United States Obligations in Lieu of Surety. In lieu of surety in any civil case, there may be deposited with the clerk of the Court lawful money or negotiable bonds or notes of the United States. The depositor shall execute a suitable bond, and, if negotiable bonds or notes of the United States are deposited, shall also execute the agreement required by 31 U.S.C. § 9303, authorizing the clerk to collect or sell the bonds or notes in the event of default.

(g) Examination of Sureties. Any party may apply for an order requiring any opposing party to show cause why it should not be required to furnish further or different security, or requiring personal sureties to justify.

TOP

LR 66.1 Receivers.

(a) Appointment of Receivers. Application for the appointment of a receiver may be made after the complaint has been filed and the summons issued.

(1) Temporary Receivers. A temporary receiver may be appointed without notice to the party sought to be subjected to a receivership in accordance with the requirements and limitations of the Federal Rules of Civil Procedure.

(2) Permanent Receivers. A permanent receiver may be appointed after notice and hearing upon an order to show cause. This order shall be issued by a judge upon appointment of a temporary receiver or upon application of the plaintiff and shall be served on all parties. The defendant shall provide the temporary receiver (or, if there is no temporary receiver, the plaintiff) within five (5) days, with a list of the defendant's creditors, and their addresses. Not less than five (5) days before the hearing, the temporary receiver (or, if none, the plaintiff) shall mail to the creditors listed, a notice of hearing, and file a proof of mailing.

(3) Bond. A judge may require any receiver appointed to furnish a bond in an amount which the judge deems reasonable.

(b) Employment of Experts. The receiver shall not employ an attorney, accountant or investigator without an order of a judge. The compensation of all such employees shall be fixed by the judge.

(c) Application for Fees. All applications for fees for services rendered in connection with a receivership shall be made by petition setting forth in reasonable detail the nature of the services and shall be heard in open court.

(d) Deposit of Funds. A receiver shall deposit all funds received in a depository designated by the judge, entitling the account with the name and number of the action. At the end of each month, the receiver shall deliver to the clerk a statement of account and the canceled checks.

(e) Reports. Within thirty (30) days of appointment, a permanent receiver shall file with the Court a verified report and petition for instructions. The petition shall be heard on ten (10) days notice to all known creditors and parties. The report shall contain a summary of the operations of the receiver, an inventory of the assets and their appraised value, a schedule of all receipts and disbursements, and a list of all creditors, their addresses and the amounts of their claims. The petition shall contain the receiver's recommendation as to the continuance of the receivership and reason for the recommendations. At the hearing, the judge shall determine whether the receivership shall be continued and, if so, the judge shall fix the time for future reports

of the receiver.

(f) Notice of Hearings. The receiver shall give all interested parties at least ten (10) days notice of the time and place of hearings concerning:

(1) Petitions for the payment of dividends to creditors;

(2) Petitions for confirmation of sales of property;

(3) Reports of the receiver;

(4) Applications for fees of the receiver or of any attorney, accountant or investigator, the notice to state the services performed and the fee requested; and,

(5) Applications for discharge of the receiver.

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LR67.1 Deposit in Court.

See General Rule 8.1.

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LR 77.1 Orders Grantable by Clerk.

The Clerk of Court is authorized to grant, sign, and enter the following orders without further direction by the Court. Any orders so entered may be suspended, altered, or rescinded by the Court for cause shown:

(a) Orders on consent satisfying a judgment or an order for the payment of money, annulling bonds, and exonerating sureties;

(b) Orders entering judgments on verdicts or decisions of the Court in circumstances authorized in Rule 58, Federal Rules of Civil Procedure, and orders entering defaults for failure to plead or otherwise defend, in accordance with Rule 55, Federal Rules of Civil Procedure;

(c) Any other orders which pursuant to Rule 77(c) Federal Rules of Civil Procedure, do not require allowance or order of the Court.

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LR 77.2 Clerk of Court.

See General Rules, pp. 1-20.

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LR 78.1 Motion Day.

See General Rule 10.1.

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LR 79.1 Custody and Disposition of Exhibits and Transcripts.

(a) Custody. Every exhibit offered in evidence, including depositions and transcripts, shall be held in the custody of the clerk of this Court. Unless reason exists for retaining originals, the judge will, upon application, order them returned to the party to whom they belong upon the filing of copies thereof approved by counsel for all parties concerned.

(b) Delivery to Person Entitled in Civil Cases. In all civil cases in which final judgment has been entered and the time has expired for filing a motion for new trial, a motion for rehearing or a notice of appeal, any party or person may withdraw any exhibit, deposition, or transcript of testimony originally produced by him, without court order, upon ten (10) days written notice to all parties, unless within that time another party or person files notice of claim thereto with the clerk. In the event of competing claims, the Court shall determine the person entitled and order delivery accordingly. For good cause shown, the Court may allow withdrawal or determine competing claims in advance of the time above specified.

(c) Unclaimed Exhibits in Civil Cases. If exhibits, depositions or transcripts of testimony in civil cases are not withdrawn within twenty (20) days after the time when notice may first be given under subdivision (b) of this Rule, the clerk shall give notice to the parties to claim the same. If such exhibits, depositions and transcripts of testimony are not withdrawn by the parties within forty (40) days after notice by the clerk to claim the same, the clerk may destroy them or make other disposition as he sees fit.

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LR 83.1 Rules by District Courts.

See General Rules

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